

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN THOMAS ENTLER,

Plaintiff,

NO. CV-12-5076-LRS

VS.

LYNN CLARK,

Defendant.

ORDER DENYING MOTION FOR REVISION

BEFORE THE COURT is Plaintiff's Motion for Reconsideration, which the Court liberally construes as a "Motion for Revision" under Fed. R. Civ. P. 54(b). ECF No. 9. Plaintiff noted his motion for hearing on August 10, 2012. It was heard without oral argument on the date signed below.

Plaintiff asks the Court to "reconsider" the Order to Amend or Voluntarily Dismiss, ECF No. 8. The Court had determined Plaintiff's speculative allegations of retaliation against Defendant Clark were insufficient to state a cognizable claim under 42 U.S.C. § 1983 and directed Plaintiff to amend or voluntarily dismiss within sixty (60) days.

Plaintiff asserts the Court's reliance on *Pratt v. Rowland*, 65 F.3d 802, 808 (9th Cir. 1995) is misplaced. The Court finds no basis to vacate the Order to Amend or Voluntarily Dismiss Complaint. If Plaintiff wishes to proceed with this action, he should file a First Amended Complaint setting forth facts showing a plausible claim of retaliation under *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005). At this

1 time, **IT IS ORDERED** Plaintiff's Motion for Revision, ECF No. 9, is **DENIED**.
2 Plaintiff shall file a First Amended Complaint or a Motion to Voluntarily Dismiss within
3 **thirty (30) days** of the date of this Order.

4 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
5 Order, forward a copy to Plaintiff, and modify the deadline to amend or voluntarily
6 dismiss this action.

7 **DATED** this 7th day of September, 2012.

8
9 *s/Lonny R. Suko*

10
11

LONNY R. SUKO
UNITED STATES DISTRICT JUDGE